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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,718	02/13/2001	Steven P. Hamilton	15879-13	1023

7590 01/28/2004

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EXAMINER

BRATLIE, STEVEN A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782718

Applicant(s)

HAMILTON

Examiner

BRATLIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/28/03, 10/31/03
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 5-17, 19-21, 23-44, 46, 47, 53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 18, 22, 45, 48-52, 54-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's arguments with respect to claims 1, 4, 18, 22, 45, 48-52, 54-57 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 1, 4, 18, 56, and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - A.) Claim 1 "first";
 - B.) Claim 4 "t a"; and
 - C.) Claim 54 "first".
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claim 52 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by either Christ or Scott.
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 4, 22, 45, 48-51, 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nekola in view of Bell, Somers et al, Nowell and French Patent #2043880.

Nekola discloses a substantially similar dolly with pivoting wheels. Nekola lacks chocks to mount a motorcycle and an actuator for a pair of wheels. Bell discloses mounting a motorcycle between cradle bars and held by adjustable chocks. Somers, et al disclose the use of adjustable front chocks. Nowell (Figs. 1-3) and French Patent #2043880 disclose the use of a single actuator for plural wheels. It would have been obvious to a mechanic with ordinary skill in the art at the time the invention was made to provide these features to the primary reference. The motivation is to transport a motorcycle.

9. Claims 18 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nekola in view of Bell, Somers et al, Nowell, French Patent #2043880 ^{as} ~~is~~ applied above, and further in view of Christ and Scott.

The claims recite loading into a truck. Scott and Christ disclose loading a dolly into a truck.

10. Claims 1, 4, 22, 45, 48-51, 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matovich in view of Bell et al and British Patent #2,326,632.

Matovich discloses substantially similar structure in Figs. 5, 6 and 7. Note cradle arms #B, chocks #82, #84 and dolly A. Attention is invited to col. 5 lines 20 – col.6. line 5. Note especially col. 5 lines 62-65. It is apparent that the structure can be adjusted to

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lift a motorcycle. It is noted that applicant's open terminology does not preclude additional cradle arms, etc. Matovich lacks pivoted lift wheels. Bell et al discloses a dolly with plural wheels, while British Patent #2,326,632 discloses pivoted wheels in Figs. 2 and 4. It would have been obvious to a mechanic with ordinary skill in the art at the time the invention was made to substitute pivoted lift wheels. The motivation is the known use of equivalents.

11. Claim 18 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matovich in view of Bell et al, British Patent, #2,326,632 as applied above, and further in view of Scott and ^{CHRIST}~~O'Rarden~~.

The claims recite loading into a truck. Scott and Christ disclose loading a dolly into a truck.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Bratlie whose telephone number is (703) 308-2669. The examiner can normally be reached on Mondays through Thursday from 6:30 to 5:00. Friday is the examiner's day off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

Steven A. Bratlie

Bratlie/vs
January 21, 2004

STEVEN A. BRATLIE
PRIMARY EXAMINER